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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,929	11/19/2003	Karl Guthrie	P 6040.13006	3155
30615	7590	06/22/2005	EXAMINER	
BIRDWELL & JANKE, LLP 1100 SW SIXTH AVENUE SUITE 1400 PORTLAND, OR 97204			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/718,929

Applicant(s)

GUTHRIE ET AL.

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Office Action is in response to applicant's preliminary amendment filed on July 12, 2004.

#### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because of the phrase "according to one aspect of the invention" in line 1 and "according to the invention" in line 2. Correction is required. See MPEP § 608.01(b).
4. The specification is objected to because of the following informalities:

- Page 8 Line 9, change "18A" to -11B- (The applicant can make this simple change or just change the reference number in Figure 1 from 11B to 18A).

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1,5-11,15 and 16 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,288,014 to Mortensen.

Regarding claims 1 and 7, Onofrio discloses a toggle bolt comprising a handle member (12) having a proximal end having an anchoring attachment (at 27, the hole can be used to attach something); and a toggle bar (18) pivotally connected to a distal end of the handle member and adapted to move between a closed position for insertion through an opening (22) and an open position wherein the toggle bar cannot be withdrawn.

However, Onofrio fails to disclose that the toggle bolt further comprises a toggle bolt pivot control member that interacts with the toggle bar.

Mortensen teaches that it is well known in the art to have a toggle bolt (10) that includes a toggle bar (20) that can be operated by a toggle control member (26).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a toggle bar control member into Onofrio's device, as taught by Mortensen, in order to be able to withdraw the toggle bar from the opening.

As to claims 5-11, Onofrio discloses that the toggle bolt further comprises a hole plug (16) adapted to guide the handle member through the hole free of contact with the interior of the hole. Mortensen teaches that it is well known in the art to have the pivot control member slidably extending through the hole plug (Figures 1 and 2).

As to claims 15 and 16, Onofrio discloses that the toggle bolt further comprises a plug-biasing member (26) that is a spring.

7. **Claims 2,12,21 and 22 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,288,014 to Mortensen as applied to claims 1,5 and 11 above, and further in view of US Pat No 61,399 to Coates.

Regarding claims 2,12 and 21, Onofrio, as modified by Mortensen, fails to disclose that the handle member is a flexible cable.

Coates teaches that it is well known in the art to have a handle member that could be either a rod or a cable (chain).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a flexible handle member, as taught by Coates, into a device as described by Onofrio, as modified by Mortensen, in order to, first, provide a simple way to operate the toggle bar, and second, since it is considered as a design

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consideration within the fastener art that will not affect the mechanism of the toggle bar.

As to claim 22, Onofrio discloses that the toggle bolt further comprises a hole plug (16).

8. **Claims 2,12,21 and 22 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,288,014 to Mortensen as applied to claims 1,5 and 11 above, and further in view of US Pat No 3,332,118 to Temple et al (Temple).

Regarding claims 2,12 and 21, Onofrio, as modified by Mortensen, fails to disclose that the handle member is a flexible cable.

Temple teaches that it is well known in the art to have a handle member that could be a cable (Figures 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a flexible handle member, as taught by Temple, into a device as described by Onofrio, as modified by Mortensen, in order to, first, provide a simple way to operate the toggle bar, and second, since it is considered as a design consideration within the fastener art that will not affect the mechanism of the toggle bar.

As to claim 22, Onofrio discloses that the toggle bolt further comprises a hole plug (16).

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9. **Claims 3,17-20,24,26,27, and 31-33 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 5,209,621 to Burbidge.

Regarding claims 3,17 and 18, Onofrio discloses a toggle bolt comprising a handle member (12) having a proximal end having an anchoring attachment (at 27, the hole can be used to attach something); and a toggle bar (18) pivotally connected to a distal end of the handle member and adapted to move between a closed position for insertion through an opening (22) and an open position wherein the toggle bar cannot be withdrawn.

However, Onofrio fails to disclose that the toggle bar further comprises a toggle bar return spring attached to the toggle bar.

Burbidge teaches that it is well known in the art to have a toggle bolt assembly comprising a toggle bar (18) that has a toggle bar returns spring (40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate into Onofrio's device a toggle return spring, as taught by Burbidge, in order to bias the toggle bar to the open position after been inserted through the opening.

As to claims 19 and 20, Onofrio discloses that the toggle bolt further comprises a plug-biasing member (26) that is a spring.

As to claim 24, Onofrio fails to disclose that the toggle bolt further comprises a toggle bolt pivot control member that interacts with the toggle bar.

Mortensen teaches that it is well known in the art to have a toggle bolt (10) that includes a toggle bar (20) that can be operated by a toggle control member (26).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a toggle bar control member into Onofrio's device, as taught by Mortensen, in order to be able to withdraw the toggle bar from the opening.

As to claims 26,27 and 31-33, Onofrio, as modified by Mortensen and Burbidge, disclose a method for anchoring to an object using a toggle bolt that has a handle member, a toggle bar, a hole plug, a toggle bar return spring, and a spring to bias the hole plug.

**10. Claim 4 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 5,209,621 to Burbidge as applied to claim 3 above, and further in view of US Pat No 61,399 to Coates.

Onofrio, as modified by Burbidge, fails to disclose that the handle member is a flexible cable.

Coates teaches that it is well known in the art to have a handle member that could be either a rod or a cable (chain).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a flexible handle member, as taught by Coates, into a device as described by Onofrio, as modified by Burbidge, in order to, first, provide a simple way to operate the toggle bar, and second, since it is considered as a design



consideration within the fastener art that will not affect the mechanism of the toggle bar.

**11. Claim 4 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 5,209,621 to Burbidge as applied to claim 3 above, and further in view of US Pat No 3,332,118 to Temple et al (Temple).

Onofrio, as modified by Burbidge, fails to disclose that the handle member is a flexible cable.

Temple teaches that it is well known in the art to have a handle member that could be a cable (Figures 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a flexible handle member, as taught by Temple, into a device as described by Onofrio, as modified by Burbidge, in order to, first, provide a simple way to operate the toggle bar, and second, since it is considered as a design consideration within the fastener art that will not affect the mechanism of the toggle bar.

**12. Claim 25 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,288,014 to Mortensen as applied to claims 5 above, and further in view of US Pat No 61,399 to Coates.

Onofrio, as modified by Mortensen, fails to disclose that the handle member is a flexible cable.

Coates teaches that it is well known in the art to have a handle member that could be either a rod or a cable (chain).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a flexible handle member, as taught by Coates, into a device as described by Onofrio, as modified by Mortensen, in order to, first, provide a simple way to operate the toggle bar, and second, since it is considered as a design consideration within the fastener art that will not affect the mechanism of the toggle bar.

**13. Claim 25 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,288,014 to Mortensen as applied to claim 5 above, and further in view of US Pat No 3,332,118 to Temple et al (Temple).

Onofrio, as modified by Mortensen, fails to disclose that the handle member is a flexible cable.

Temple teaches that it is well known in the art to have a handle member that could be a cable (Figures 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a flexible handle member, as taught by Temple, into a device as described by Onofrio, as modified by Mortensen, in order to, first, provide a simple way to operate the toggle bar, and second, since it is considered as a design consideration within the fastener art that will not affect the mechanism of the toggle bar.

**14. Claims 13,23,29 and 30 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,288,014 to

Mortensen as applied to claims 5 and 11 above, and further in view of US Pat No 4,615,514 to Hamlin.

Onofrio, as modified by Mortensen, fails to disclose that the toggle bar is adapted to fit into a recess in the plug for holding the toggle bar in the closed position. Mortensen teaches a recess at the plug adapted to receive the toggle bar; however, it does not hold the toggle bar in the closed position. When a user moves the toggle pivot control member, the toggle bar moves inside the recess.

Hamlin teaches that it is well known in the art to have a plug (36) that includes a recess that is capable of receiving and holding a toggle bar in a closed position.

It would be obvious to one having ordinary skill in the art at the time the invention was made to have a plug with a recess that can be adapted to receive the toggle bar, as taught by Hamlin, into a device as described by Onofrio, as modified by Mortensen, in order to hold the toggle bar in the closed position so as to introduce the bar through the opening of the member.

**15. Claim 14 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,288,014 to Mortensen and US Pat No 4,615,514 to Hamlin as applied to claim 13 above, and further in view of US Pat No 61,399 to Coates.

Onofrio, as modified by Mortensen and Hamlin, fails to disclose that the handle member is a flexible cable.

Coates teaches that it is well known in the art to have a handle member that could be either a rod or a cable (chain).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a flexible handle member, as taught by Coates, into a device as described by Onofrio, as modified by Mortensen and Hamlin, in order to, first, provide a simple way to operate the toggle bar, and second, since it is considered as a design consideration within the fastener art that will not affect the mechanism of the toggle bar.

**16. Claim 14 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,288,014 to Mortensen and US Pat No 4,615,514 to Hamlin as applied to claim 13 above, and further in view of US Pat No 3,332,118 to Temple et al (Temple).

Onofrio, as modified by Mortensen and Hamlin, fails to disclose that the handle member is a flexible cable.

Temple teaches that it is well known in the art to have a handle member that could be a cable (Figures 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a flexible handle member, as taught by Temple, into a device as described by Onofrio, as modified by Mortensen and Hamlin, in order to, first, provide a simple way to operate the toggle bar, and second, since it is considered as a design consideration within the fastener art that will not affect the mechanism of the toggle bar.

**Conclusion**

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

Carlos Lugo  
AU 3676

June 14, 2005.



**BRIAN E. GLESSNER  
PRIMARY EXAMINER**